

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-849V

Filed: October 5, 2016

UNPUBLISHED

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ROBERT HART,

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Petitioner,

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v.

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SECRETARY OF HEALTH

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AND HUMAN SERVICES,

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Respondent.

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*Paul R. Brazil, Muller Brazil, LLP, Dresher, PA, for petitioner.*

*Julia Wernett McInerny, U.S. Department of Justice, Washington, DC, for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Dorsey**, Chief Special Master:

On July 19, 2016, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that he suffered a left shoulder injury as a result his November 30, 2014 influenza (“flu”) vaccination. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On October 3, 2016, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 4. Specifically, respondent “believes that petitioner’s alleged injury is consistent with a shoulder injury related to vaccine administration (“SIRVA”) and that it was caused-in-fact by the flu vaccine he received on November 30, 2014.” *Id.* Respondent further agrees that no other causes have been identified for petitioner’s SIRVA, and that

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

“petitioner met the statutory requirements by suffering the condition for more than six months.” *Id.* Respondent additionally indicates that “based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the Act.” *Id.*

**In view of respondent’s concession and the evidence before me, the undersigned finds that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master